

## 6.12.00.00 - RELINQUISHMENTS

### **6.12.01.00 Policy**

It is the policy of CALTRANS to relinquish all interests in State highways deleted by legislative act, State highways superseded by relocation, and adjacent public ways which have been constructed as part of a highway project but are not essential to the proper functioning of the State highway facility.

Relinquishments are unnecessary for adjacent public ways improved as part of a State highway project if there was no additional acquisition of title. These adjacent public ways lie outside of our normal operating right of way. Section 83 of the S&H Code only provides for acquisition of title for any public street or highway lying within the normal boundaries of a State highway.

Relinquishment policy for projects financed solely from State funds is basically the same as for Federal Aid projects. Federal and State authorities have agreed to acceptable relinquishment procedures on all Federal Aid projects. The procedure is as follows:

- A. Sections of the State highway superseded by construction on a new location are usually relinquished to local authority for maintenance and operation. Certain rehabilitation, such as resurfacing, may be performed at State expense on such sections prior to relinquishment.

Under these circumstances, a section of highway superseded by construction of a new project, approved by the FHWA as the new location of the particular Federal Aid route, is not a part of the Federal Aid highway system and the superseded section may be disposed of without referral to the FHWA. Federal Aid funds may not participate in rehabilitation work performed for the purpose of placing the road to be relinquished in a condition acceptable to the local authority.

- B. In connection with freeway projects, adjustments to severed or intersected streets or roads requiring construction on local facilities, such as turnarounds at the ends of severed streets or roads adjacent to the freeway right of way, or adjustments in grade and alignment of roads or streets which cross over or under the freeway. Such reconstructed local facilities, including any new right of way required for adjustments, outside access control lines of the freeway are relinquished to local authorities for

maintenance and operation, except structures over or under the freeway within the State highway right of way lines are retained under State jurisdiction.

Under these circumstances the State obtains custody of the local facilities. Any new right of way required for adjustments, and only for the time necessary for performing the construction involved in the adjustments, never become a part of the State highway system or Federal Aid highway system. These local facilities may be allowed to revert to local custody without referral to the FHWA. Eligibility of such adjustments for Federal Aid participation is as determined at time of PS&E approval under policies of the FHWA.

- C. Frontage roads, or portions of frontage roads not necessary as extensions of freeway ramps to connect the freeway with the nearest crossroads or streets, are constructed generally parallel to and outside of the access control lines of the freeway. This permits access to private properties, and thus reduces or eliminates claims for severance damages by those whose access rights are affected by freeway construction. This also restores local travel circulation which has been disrupted by the severing or adjustment of local streets and roads. Such frontage roads, or portions thereof, are relinquished to the local authority for maintenance and operation.

Frontage roads constructed under these conditions are not a necessary part of the State highway system or the Federal Aid system and may be relinquished to local public authority without referral to the FHWA. Eligibility of such frontage roads for Federal Aid participation will be as determined at the time of PS&E approval under policies of the FHWA.

- D. Frontage roads, or portions of frontage roads outside access control lines of the freeway, are constructed to serve (in lieu of or in addition to the purposes outlined under C. above) as connections between ramps to or from the freeway and existing public roads or streets. In effect, this becomes part of the ramps, and are retained in the custody of the State for maintenance and operation. A frontage road, or portion of a frontage road,

which serves as an extension of a ramp from a freeway to a local public road or street, is necessary to the intended functioning of the Federal Aid freeway and may not be released from State jurisdiction without approval of the FHWA.

- E. Ramps are constructed to serve as connections for interchange of traffic between the freeway and local roads or streets. Ramps are generally within project access control lines for the full length except at the point of connection with the local road or street. Ramps are retained in the custody of the State for maintenance and operation.

All ramps constructed to serve for interchange of traffic between the freeway and local roads or streets are necessary for the intended functioning of the Federal Aid freeway and may not be released from State jurisdiction without approval of the FHWA.

The State may relinquish to local government jurisdictions, without referral to the FHWA, on a project-by-project basis items A., B. and C. above subject to the following conditions and understandings:

- F. Immediately following action by the CTC in approving relinquishment to local governmental jurisdiction of facilities in which there has been participation of Federal Aid funds, CALTRANS will furnish the FHWA Division Engineer, for record purposes, a copy of a suitable map, or maps, identified by the Federal Aid project number and the date of the CTC action, clearly delineating the facilities to be relinquished.
- G. If at any time after relinquishment the relinquished facility is required for proper operation of the Federal Aid freeway, CALTRANS will take immediate action to

restore such facility to State jurisdiction.

- H. If at any time a relinquished frontage road, or portion thereof, or any part of the right of way therefor, has been vacated by local governmental authority and a showing cannot be made that the vacated facility is no longer required as a public road, the FHWA may withhold Federal Aid highway funds due the State an amount equal to the Federal Aid participation in the vacated facility.
- I. In no case shall any relinquishment include any portion of the right of way within the access control lines as shown on the plans for a Federal Aid project approved by the FHWA without prior approval from the FHWA.
- J. There cannot be additional Federal Aid participation in future construction or reconstruction on any relinquished "off the Federal Aid system" facility as defined under items A., B. and C. above, unless the underlying reason for such future work is caused by future improvement of the associated Federal Aid highway.

#### **6.12.02.00 Numbering**

A relinquishment number is given to each continuous segment of legislative deletion, superseded State highway, or collateral facility proposed to be relinquished to a single local agency. A continuous segment includes all contiguous right of way, including slope and drainage easements, and is given a single number. Legislative deletions, superseded highway and collateral facilities are identified by separate numbers.

A collateral facility that is one continuous segment on the freeway agreement map will generally carry one segment number on the relinquishment maps.

Exceptions may be made in the above-numbering procedure when necessary to expedite the relinquishment process or to clarify unusual situations. Exceptions should be explained in the Relinquishment Request submitted to the Division.

#### **6.12.03.00 Status of Relinquishments**

The District shall prepare and maintain a complete relinquishment status. The status shall be kept current and contain sufficient information to depict

without undue investigation the latest completed step in the relinquishment process. The status shall also give reasons for any delay in completing the process on schedule.

The District shall furnish to the Division a current Relinquishment Status, monthly if available, but not less than quarterly.

Relinquishments shall be entered on the status not later than 30 days after award of a construction contract for a project that contains highway right of way requiring relinquishment.

Relinquishments as a result of policy change, but not connected with new construction projects, shall be entered on the relinquishment status within 90 days of issuance of the policy change.

Highway right of way requiring relinquishment by reason of right of way requirement changes not connected with new construction projects shall be entered on the relinquishment status at the time right of way changes are completed on R/W Record Maps.

#### **6.12.04.00 FHWA Approval**

FHWA approval of a proposed relinquishment is required when any portion of the proposed relinquished right of way lies within access control lines as shown on the plans for a Federal Aid project previously approved by the FHWA.

Project Development determines when access rights are no longer needed. They obtain necessary approvals for disposal from the FHWA. Access rights proposed to be relinquished should be brought to the attention of Project Development by R/W Engineering at the earliest practicable time. This will give Project Development adequate time to obtain FHWA approval and prevent delay in relinquishment processing. R/W Engineering relinquishment files should document the coordinating effort with Project Development.

Relinquishment requests submitted to the Division involving access rights no longer needed for freeway purposes will contain either a copy of the FHWA approval letter or a statement that Project Development has obtained FHWA approval.

#### **6.12.05.00 Consent of Local Agency**

Section 73 of the S&H Code, relating to relinquishments, authorizes relinquishment only in four situations:

A. Where a State highway has been deleted from the State highway system by legislative enactment.

B. When a State highway or portion thereof has been superseded by relocation.

C. Where frontage or service roads have been constructed as part of a State highway project but do not constitute a part of the main traveled roadway.

D. Any nonmotorized transportation facility, as defined in Section 156 of the Streets And Highways Code, that has been constructed as part of a State highway project and does not lie within the main traveled way.

In the first two situations, the relinquishment may be made without the consent of the local agency. In the third and fourth cases, the local agency's consent is required. Normally, this consent is given in an agreement, in a clause which provides for the local agency to accept control and maintenance over each of the *"... relocated or reconstructed city streets (or county roads), frontage roads and other State-constructed local roads ..."* and *"... will also accept title to the portions of such roads lying outside the State highway limits upon relinquishment by the State."*

#### **6.12.05.01 Changes Subsequent to Agreement**

When changes occur in the project after an agreement has been executed, an amendment to the original agreement is recommended. In the absence of an amended agreement, or in situations which are appropriate for relinquishment and are not covered by an agreement, a Resolution Of Acceptance or Letter Of Consent from the legislative body of the city or county shall be forwarded to the Division with the letter of transmittal requesting the relinquishment resolution.

#### **6.12.06.00 Ramp Junction Limits**

It is the policy of CALTRANS to acquire access rights and to protect such rights with appropriate fencing along interchange ramps to their junctions with the local road system. Details regarding this policy are stated in the Highway Design Manual.

It is the policy of CALTRANS that roads that have been constructed as parts of State highway projects, but which will become parts of the local road system upon relinquishment, to establish cutoff lines between ramps and roads to be relinquished along normal right of way lines of the local road system of which the roads will become a part. In most cases, cutoff lines will be between the ends of access control fences constructed to protect ramp access rights. Sound

engineering judgment must be used in the application of this policy. In no case may facilities which are essential to proper flow of traffic on freeways be relinquished. In cases of doubt, Project Development must be consulted.

#### **6.12.07.00 Legal Description**

The description of superseded State highway right of way may be described in general terms sufficient to identify the portion of such highway right of way being relinquished, provided definite terminal limits are described. Where the superseded highway is adjacent to the new State highway, the common boundary between right of way to be relinquished and right of way to be retained is also described or defined by some recorded references or by an actual description of said line.

CALTRANS may, in accordance with Section 128 of the S&H Code, file relinquishment maps in State Highway Map Books and then relinquish by reference to the filed maps. Filed maps must contain the same basic information required above when relinquishment is entirely by description. Requirements for the maps are shown in Exhibit 6-1.

#### **6.12.07.01 Frontage Roads or Relocated Public Roads**

In case of relinquishment of frontage roads or relocated public roads, which will constitute new public roads as distinguished from a superseded existing road, legal descriptions of the boundaries thereof must be used. This requirement may be fulfilled by giving either the correct center line description with right of way widths stated, metes and bounds description, or a description referring to maps filed in the State Highway Map Books. The reason for the distinction between frontage roads or relocated public roads, and superseded public roads, is the width and location of the superseded road can be determined by record. The construction of a frontage road or relocation of a public road to accommodate the new State highway has created a new road or roads that did not exist prior to construction.

#### **6.12.07.02 Excess Land**

It is the policy of CALTRANS to dispose of excess land by Director's Deed. The relinquishment statutes apply only to the conveyance of highway right of way.

Therefore, care should be taken that relinquishment descriptions do not include any land outside the highway right of way lines. Only small portions of land that are unsaleable or of nominal value that have been included within the right of way lines may be relinquished as part of the highway right of way.

If there is excess land along the route of a proposed relinquishment, the relinquishment maps and descriptions must clearly show by exception or exclusion the excess land is not a part of the relinquishment.

#### **6.12.07.03 Access Restrictions**

Access is not to be reserved to the State on lines between private property and the road to be relinquished.

If access is to be restricted between the relinquished road and an adjacent State freeway, the following clause is to be added at the end of the description:

*"EXCEPTING AND RESERVING to the State of California any and all rights of ingress to and egress from the highway hereby relinquished in and to the adjacent and adjoining freeway, except at such points as now are or may be established by resolution of this Commission."*

#### **6.12.08.00 Scheduling Relinquishment Resolutions**

The District Director shall appoint staff with the duty of preparing requests for all relinquishment resolutions. Each request shall be assigned a request number. This number shall be the basic reference when communicating with the Division regarding a specific resolution.

In order to prevent premature CTC action on relinquishments, the Division will clear with the District prior to scheduling specific requests on the CTC's agenda.

Relinquishment requests are to be forwarded to the Division at least four months prior to completion of construction. This is necessary to permit presentation of the resolution to the CTC immediately after the project is completed.

Where counties and cities object to receiving the 90-day notice prior to completion of construction, the

District should notify the Division to delay issuance of the Notice To Relinquish.

Submittal of relinquishment requests to the Division for freeway collateral facilities are not to be delayed in the District pending proposed freeway planting contracts. Where planting contracts will affect relinquishment, the District shall enter into a cooperative agreement at an early enough date so the agreement will be executed prior to completion of the construction contract. Any difficulty in securing a cooperative agreement that will delay relinquishment of the collateral facilities is to be referred to the Division, R/W Engineering Branch, with full details.

#### **6.12.09.00 Preparation of Requests**

The request for relinquishment resolution by the CTC shall be prepared and submitted to the Chief, DORW, Attention: R/W Engineer, with the personal recommendation of the District Director. The request shall contain the following information:

- A. County, route and post miles.
- B. Give name of local agency where relinquishment is located.
- C. Location of proposed relinquishment by descriptive limits. An example would be to reference the beginning and end points to the nearest existing definable point on the ground, such as a road, street, river or county line. A specific tie to a city limit should never be used because they are subject to frequent change.
- D. Contract number, project limits and date of acceptance or anticipated completion date of relocated construction project.
- E. Federal Aid number, if applicable and a statement that the relinquishment complies with 23 CFR 620.203(i).
- F. Freeway agreement date and/or a copy of the city or county resolution of acceptance when not covered by freeway agreement.
- G. Type of relinquishment.
  - 1. Deleted by legislative action.
  - 2. Superseded State highway.
  - 3. Frontage roads or collateral facilities.
  - 4. Reconstructed city streets or county roads.
  - 5. Other.

- H. State that all right of way has been acquired and that fee and/or easement title vests in the State.
- I. State whether or not access rights are to be reserved and give details.
- J. If frontage roads, service roads or outer highways are under the minimum width of 40 feet and are not shown in the freeway agreement, furnish the Resolution of Acceptance or Letter of Consent by the local authority.
- K. Give state of repair of roadways to be relinquished in accordance with Section 73 of the S&H Code.
- L. State whether the proposed relinquishment has been reviewed with the local agency within the past year. If a protest is probable, this should be stated in the request reporting the kind of protest and action to be taken.
- M. State if the superseded road can be used for stock trail purposes and District's recommendation thereto.
- N. If all locations of the proposed relinquishment do not conform to the approved plans, deviations and reasons therefor should be listed. If no deviations exist, this fact should be stated. Discrepancies relating to access control should be fully justified.
- O. Explanation of any special conditions, including, if applicable, a statement advising the Division if any or all of the proposed relinquishment is within forest land.
- P. If action involves a railroad grade crossing or separation, give the PUC decision number by which consent was given.
- Q. Mileage of highway proposed to be relinquished to counties will be submitted

in a tabulated form with the relinquishment request letter. Mileage will be noted for superseded highway, frontage roads, and connecting road type parcels (see sample tabulation below). Mileage should not be shown in the description or on the maps. Mileage need not be shown for parcels which contain only cul-de-sacs, alleys or reconstructed county roads. In cases where frontage roads and reconstructed local roads are combined as one parcel, show mileage for the frontage road portion only and note it "mileage added."

**SAMPLE TABULATION**  
Relinquishment Mileage  
County Miles Added

Connecting Parcel Number Roads	Frontage or Superseded Roads Roads
1	2.1 mi.
2	.6 mi.
3	.7 mi.
4	1.3 mi.
5	1.0 mi.
Total	3.4 mi. 2.3 mi.

R. State that highway planting, if any, is covered by a cooperative agreement.

Enclosures for the above request letter shall include:

A. Two sets of a legal description of the right of way to be relinquished--an original typewritten description and one copy. Relinquishment descriptions shall be submitted, double-spaced, on 8-1/2" x 11" bond with 1-1/2" margin at the top and 1" margin at the bottom and sides, except the last page shall have a 3" margin at the bottom. The description should include an access clause if applicable.

B. Maps to be included as follows:

1. Five sets of maps when using metes and bounds descriptions.
2. Five sets of unrecorded maps when using descriptions referring to recorded relinquishment maps, except under the

CTC. If adopted, a certified copy will be recorded by the District.

After CTC action, the Division will send a certified copy of the relinquishment to the city or county and

following condition:

If a District desires the Division to send recorded maps with the Notice of Intention to Relinquish to the city or county, only two sets of unrecorded maps are required.

After Division approval of the unrecorded maps, the District will be requested to record the maps and subsequently forward five sets to the Division.

3. When bearings and distances used on maps or in descriptions are on the State plane coordinate system, identify the datum as either the 1927 or the 1983 system and state the zone.
4. The person in responsible charge of preparing the maps or descriptions should place their name, seal and the date their license expires on the description or on the title sheet of the relinquishment map.

C. If relinquishment maps do not show construction features, they shall be accompanied by one additional set of maps, such as marked up layout sheets, which show the proposed relinquishment and also features of construction shown on the approved plans.

D. Two sets of mileage tabulations for relinquishments to counties only.

**6.12.10.00 Processing**

There is no legal requirement for the consent of the Board Of Supervisors or City Councils to relinquishment of superseded portions of State highways. However, in the interest of courtesy and cooperative effort, District Directors will contact local authorities and advise them of the impending action and their responsibility for future maintenance before recommending relinquishment to the Division.

The Division will forward to the county or city a Notice Of Intention To Relinquish on all superseded highways, frontage roads, service roads or outer highways. This letter will be sent by certified mail with a return receipt requested. The Notice of Intention to Relinquish will contain a copy of the proposed resolution together with a set of relinquishment maps. Copies of the proposed resolution will also be forwarded to the District. After the 90-day notice period, and clearance from the District, the resolution will be submitted to the will advise them it will become effective upon recordation.

The District shall forward a copy of any relinquishment involving National Forest Lands to the

local National Forest Representative when processing has been completed.

#### **6.12.11.00    Relinquishment of Relinquishments**

The District, upon receipt of a certified copy of the CTC's resolution authorizing the relinquishment, shall immediately record such certified copy in the Recorder's Office of the county in which the relinquished right of way is located. Immediately upon recordation, the District shall advise the Division by facsimile of the full recordation data and shall inform, by letter, the Board Of Supervisors or City Council, that the relinquishment has been recorded, giving full recordation data. A copy of the letter shall be forwarded to the Division. The District shall also submit a memorandum to the Division for filing that shows the recordation data and evidence that an entry was made on the District R/W Record Maps.

The District Right Of Way shall inform the District's Maintenance Office and other interested offices in the District immediately upon recordation of the relinquishment.

#### **6.12.12.00    Relinquishment over Federal Lands**

Care should be exercised when contemplating a relinquishment of State highway over Federal lands. If the Department acquired a highway easement from a Federal agency it is possible that the easement is not transferable.

If that is the case, it is advisable for the Department, the Local agency, and the Federal agency to agree beforehand as to what relinquishment transfer will be acceptable to all parties. The Notice of Intention to Relinquish should then specify the proposed relinquishment plan so that there will be no later dispute as to its terms.

It must be understood that in the case when a transfer would terminate the highway easement right, the local agency, upon proper application would be granted the necessary right of way.